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EXAMINER

BALI, VIKKRAM

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARCO WINTER, WOLFRAM PUTZKE-ROEMING,
and JOERN JACHALSKY

Appeal 2016-001326
Application 13/792,483
Technology Center 2600

Before ERIC S. FRAHM, CATHERINE SHIANG, and
NATHAN A. ENGELS, *Administrative Patent Judges*.

SHIANG, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–9, which are all the claims pending and rejected in the application. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

STATEMENT OF THE CASE

Introduction

According to the Specification, the present invention relates to identifying an object in an image or images. *See generally* Spec. 1. Claim 1 is exemplary:

1. A method for identifying an object in an image or a sequence of images, the method comprising:
 - segmenting a first image into superpixels;

- determining a set of grouped superpixels belonging to an object;
- sending the set of grouped superpixels to a remote search engine; and
- receiving results of a search performed by the search engine on the set of grouped superpixels, wherein the results comprise information about the object.

References and Rejections

Claims 1–2, 5–6, and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yuan (US 8,554,011 B2; iss. Oct. 8, 2013) and Rothschild (US 2012/0113273 A1; publ. May 10, 2012).

Claims 3–4 and 7–8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yuan, Rothschild, and Komoto (US 8,401,243 B2; iss. Mar. 19, 2013).

ANALYSIS

On this record, the Examiner did not err in rejecting claim 1.

We disagree with Appellants’ arguments, and agree with and adopt the Examiner’s findings and conclusions in (i) the action from which this appeal is taken and (ii) the Answer to the extent they are consistent with our analysis below.¹

Appellants contend the cited references do not teach “sending *the set of grouped superpixels* to a remote search engine; and []receiving results of a search performed by the search engine on *the set of grouped superpixels*,”

¹ To the extent Appellants advance new arguments in the Reply Brief without showing good cause, Appellants have waived such arguments. *See* 37 C.F.R. § 41.41(b)(2).

as recited in claim 1 (emphases added). *See* App. Br. 5–6. In particular, Appellants assert “Rothschild does not even mention superpixels, let alone grouped superpixels.” App. Br. 6; *see also* App. Br. 5–6.

Appellants have not persuaded us of error. Because the Examiner relies on the combination of Yuan and Rothschild to teach the disputed claim limitations, Appellants cannot establish nonobviousness by attacking the references individually. *See In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). The Examiner finds—and Appellants do not dispute—Yuan teaches “determining a set of grouped superpixels belonging to an object.” Ans. 6, 9. Therefore, Yuan teaches “a set of grouped superpixels.” As a result, Rothschild does not need to teach that claim element separately.

Because Appellants have not persuaded us the Examiner erred, we sustain the Examiner’s rejection of claim 1, and independent claim 6 for similar reasons.

We also sustain the Examiner’s rejection of corresponding dependent claims 2–5 and 7–9, which Appellants do not separately argue with substantive contentions.

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DECISION

We affirm the Examiner's decision rejecting claims 1–9.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED